IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 2434 of 1986
Date of decision: March 14, 2007

Nachhattar Singh and another ...Petitioners

Versus

The Additional Director, Consolidation of Holdings,
Punjab and others ...Respondents.

CORAM:- HON'BLE MR. JUSTICE K.S.GAREWAL

Present: Mr. JS Chahal, Advocate,
for the petitioners.

None for the respondents.

K.S.GAREWAL, J.

This petition has been filed by Nachhattar Singh and his brother Jit Singh of Jassowal, challenging the order dated January 15, 1986, whereby their neighbour Man Singh was granted a path by the Additional Director, Consolidation of Holdings (Jullundur).

According to the petitioners, consolidation of holdings in village Jassowal had taken place in 1964. After consolidation Man Singh and Ram Singh (respondents 2 & 3) had been jointly allotted a block of land adjoining the holding of the petitioners. They were also provided a path to

their joint holding which they used till the partition of their holdings. As a result of the partition Man Singh and Ram Singh got two separate blocks. Man Singh's holding was at a short distance from the path. Therefore, Man Singh instead of taking the path from Ram Singh filed an application before the Additional Director, Consolidation of Holdings, under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter referred to as **the Act**), which was allowed and certain amendments were carried in the scheme of the consolidation.

The order of the Additional Director has been challenged on the ground that it was violative of Section 42 of the Act and also on the ground that it was time barred.

Man Singh appeared and contested the petition by pleading that legality of the order had already been challenged by the petitioners through a civil suit before the Sub Judge Ist Class, Ludhiana, who granted an interim injunction on April 1, 1986 but vacated the order on May 5, 1986. The suit is still pending, therefore, the writ petition was liable to be rejected.

On merits, it was contended that there was a well in Killa 27. The land upto the well was connected to land to the South with a link path which had passed through the petitioner's land but the path was not given in the scheme of consolidation. However, the respondents had been using this link path since consolidation without any objection from the petitioners. This situation continued even after the partition between Man Singh and Ram Singh. All of sudden in 1995, the petitioners took exception to the use of this path for the first time which compelled Man Singh to seek remedy under Section 42 of the Act.

The question to be considered is whether the order of the

Additional Director was justified after 20 years of the conclusion of the consolidation in the village ? In order to appreciate the controversy, site plan Annexure P/2 may be referred to. Man Singh' holding is to the south of the holding of the petitioners. The path which everyone used came upto a point a short distance from Man Singh's holding. The Additional Director found that the request for a short link to connect the path to Man's Singh holding was a genuine request. The only alternative viable method was to take some area from the petitioners' holding to provide the path to Man Singh and compensate the petitioners' by giving them an equal area from Man Singh's holding. The order of the Additional Director when seen in its entirety and with reference to the site plan, appears to be justified and equitable. No prejudice or injustice has been caused to the petitioners.

The petition is without merit. Dismissed.

March 14, 2007 **(K.S.GAREWAL)**
prem **JUDGE**